

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

WILLIAM J. CUNDITT,
Petitioner,
vs.
HIGH DESERT STATE PRISON, *et al.*,
Respondents.

3:11-cv-00785-ECR-WGC

ORDER

This is a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 in which petitioner, a state prisoner, is proceeding *pro se*.¹ On December 14, 2011, the court issued an order denying petitioner's motions to proceed *informa pauperis* because petitioner failed to use the approved form and the motions were incomplete. (ECF No. 12.)

On January 3, 2012, petitioner filed a new motion to proceed *in forma pauperis*. (ECF No. 13.) This motion is also incomplete. Petitioner failed to provide a financial certificate signed by an authorized prison officer and failed to provide a statement of his inmate trust fund account for the six

¹ As the court noted in case 3:11-cv-00397-ECR-RAM, it appears that petitioner's last name is "Cundiff" rather than "Cunditt," but that petitioner's lower case "f" looks similar to a lower case "t" in petitioner's hand-written documents.

1 months prior to the filing of his application. The court expressly cautioned petitioner in its December
2 14, 2011 order that his failure to either pay the filing fee of \$5.00 or file a fully completed application
3 to proceed *in forma pauperis* could result in dismissal of this action.²

4 Additionally, petitioner has submitted a voluminous number of documents to the court that are
5 nonsensical and not responsive to the court's December 14, 2011 order. Because petitioner has failed
6 to properly initiate this action, the court directs the clerk to return these documents to petitioner without
7 placing them on the docket.

8 **IT IS THEREFORE ORDERED** that the clerk shall **FILE** and docket the petition (ECF No.
9 1-1).

10 **IT IS FURTHER ORDERED** that petitioner's motion to proceed in forma pauperis (ECF No.
11 13) is **DENIED**.

12 **IT IS FURTHER ORDERED** that this action is **DISMISSED WITHOUT PREJUDICE** for
13 petitioner's failure to obey this court's order of December 14, 2011. The clerk shall **ENTER**
14 **JUDGMENT** accordingly.

15 **IT IS FURTHER ORDERED** that all pending motions are **DENIED as moot**.

16 **IT IS FURTHER ORDERED** that the clerk **SHALL** return the miscellaneous documents
17 submitted by petitioner without placing them on the docket.

18
19 Dated this 31st day of January, 2012.

20
21 
22 **UNITED STATES DISTRICT JUDGE**

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24 ² In his petition, petitioner appears to be challenging his state criminal conviction in the case
25 *State v. Cundiff*, 08C242790, in the Eighth Judicial District Court for the District of Nevada. This
26 court's review of the docket in that case indicates that post-conviction proceedings remain ongoing. *See*
<https://www.clarkcountycourts.us/Anonymous/CaseDetail.aspx?CaseID=7553942>. Thus, it does not
appear that petitioner will be prejudiced by the court's dismissal of this action without prejudice to a
properly-commenced habeas corpus action.